REMARKS

This responds to the Office Action mailed on May 17, 2004.

Claims 1, 3, 7-9, 13, 15-21, 24, and 26 have been amended. Claims 27-29 have been added. No claims have been cancelled. Claims 1-13 and 15-29 are now pending in this application.

Amendments to the Claims

Claims 1, 3, 7-9, 13, 15-21, 24, and 26 have been amended. No new matter has been introduced.

The amendments to the claims are made to satisfy Applicant's preferences, not necessarily to satisfy any legal requirement(s) of the patent laws, and they are not intended to limit the scope of equivalents to which any claim element may be entitled.

Claims 1, 15, and 24 have been amended to include "a real-time data error." Support for this phrase can be found, for example, at page 5, lines 18-20 of Applicant's original disclosure.

Minor amendments have been made to claims 3, 7-9, 13, 16-21, and 26 to put them in better form.

New Dependent Claims 27-29

New dependent claims 27-29 have been added to provide Applicant with additional protection to which Applicant is entitled. No new matter has been introduced.

Support for the additional subject matter of added claims 27-29 may be found, for example, in claims 19 and 20 of Applicant's original disclosure.

§102 Rejection of the Claims

Claims 1-6, 15, 16, 18-20, 22 and 23 were rejected under 35 USC §102(b) as being anticipated by Karlsen et al. (WO 97/15124 A1). This rejection is respectfully traversed.

The Office Action stated on page 7, in section 18 that Karlsen discloses "when a real-time error occurs" at Fig. 7, step 730, and at page 11, lines 1-6 of Karlsen. In fact, step 730 of

FIG. 7 of Karlsen recites: "copy adaptive filter to programmable filter." Further, page 11, lines 1-6 of Karlsen discusses steps 720 and 730.

Anticipation requires the disclosure in a single prior art reference of each element of the claims under consideration. *In re Dillon,* 919 F.2d 688, 16 USPQ2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991).

Applicant respectfully submits that the Office Action did not make out a *prima facie* case of anticipation, because Karlsen does not teach each and every claim element of independent claims 1, 15 and 18. The Office Action does not show that Karlsen discloses "when a real-time error occurs" or "when a real-time data error occurs" as claimed in claims 1, 15 or 18.

Therefore, the Office Action has not made out a *prima facie* case of anticipation. Accordingly, independent claims 1, 15 and 18 are patentably distinguishable over Karlsen, and Applicant respectfully requests that the rejection be withdrawn.

Claims 2-6, 16, 19-23, and 27 depend, directly or indirectly, on one of claims 1, 15 or 18 and are patentable over Karlsen, for the reasons argued above. These dependent claims are also patentable in view of the additional elements that they provide to the patentable combination.

§103 Rejection of the Claims

Claims 7-13 were rejected under 35 USC §103(a) as being unpatentable over Rigstad et al. (U.S. 6,044,150) in view of Karlsen.

Claims 24-26 were also rejected under 35 USC §103(a) as being unpatentable over Karlsen in view of Rigstad.

Claim 21 was also rejected under 35 USC §103(a) as being unpatentable over Karlsen in view of Yatrou et al. (U.S. 5,343,522).

These rejections are respectfully traversed.

With regard to independent claim 7, on page 7 of the Office Action, the Examiner admits that Rigstad does not anticipate "a model store to store a current echo model when a real time error occurs." Instead, the Examiner looks to Karlsen and states that Karlsen discloses "when a real-time error occurs" while citing Karlsen at Fig. 7, step 730, and at page 11, lines 1-6. Respectfully, Applicant disagrees. In fact, step 730 of FIG. 7 of Karlsen recites: "copy adaptive

filter to programmable filter." Further, page 11, lines 1-6 of Karlsen discusses steps 720 and 730.

The Office Action has the burden under 35 U.S.C. §103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). To establish a *prima facie* case of obviousness under 35 U.S.C. §103, the prior art reference (or references when combined) must teach or suggest every claim element. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA, 1974). MPEP §2143.

Applicant respectfully submits that the Office Action did not make out a *prima facie* case of obviousness, because the combined references, and in particular Karlsen, do not teach each and every claim element of claims 7 and 24. The Office Action does not show that Karlsen discloses "when a real-time error occurs" or "when a real-time data error occurs" as claimed in claims 7 or 24, respectively.

The Office Action failed to establish a *prima facie* case of obviousness, because the cited references do not teach or suggest all of the elements of Applicant's claimed invention. Accordingly, independent claims 7 and 24 are patentably distinguishable over the cited references, and Applicant respectfully requests that the rejections be withdrawn.

Claims 8-13 and 25-26 depend, directly or indirectly, on one of claims 7 or 24, and are patentable over the references respectively cited against them in the Office Action, for the reasons argued above. These dependent claims are also patentable in view of the additional elements that they provide to the patentable combination.

Applicant believes the additional and amended claims are patentable, and that the amendments and additions made herein are within the scope of a search properly conducted under the provisions of MPEP 904.02. Accordingly, Applicant submits that claims 1-13 and 15-29 are patentable.

Allowable Subject Matter

Applicant notes with appreciation that independent claim 17 was allowed.

Added claims 28 and 29 depend on claim 17, and they are therefore patentably distinguishable from the cited references. These dependent claims are also patentable in view of the additional elements that they provide to the patentable combination.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney Lucinda Price, located in Gainesville, Florida, at (352) 373-8804, or Applicant's below-named representative, located in Minneapolis, Minnesota, at (612) 349-9592, to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date July 19, 2004

By Ann M. McCrackin
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 19 day of July 2004.

KACIA LEE

Name

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Signature